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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,200	07/15/2003	Donald E. Weder	8403.932	8714

30589 7590 06/02/2005

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OKLAHOMA CITY, OK 73113

EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/620,200	Applicant(s) WEDER, DONALD E.	
	Examiner Nasser Ahmad	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-21 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-21 and 24-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Allowability Withdrawn

1. Indicated allowability of claims 10-11 and 22-23, now presented as independent claims 25-28, is being withdrawn in view of the newly uncovered prior art. A complete action on the merit follows:

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-9, 12-21 and 24-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of U.S.

Patent No. 6,406,651. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant application and Patent'651 are directed to a method of making an article. Patent'651 teaches a method of making decorative grass by providing material having matted or textured surface assimilating the appearance of paper, and cutting the material into strips of grass. However,

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Patent'651 fails to teach that the method for making ribbons. It would have been obvious to one having ordinary skill in the art to utilize the teaching of Patent'651 to form strips of ribbons because ribbons and grass are of the same shape as shown in the drawings of both the instant application (figures 20) and the Patent'651 (figures 20-22).

Rejections Maintained

4. Claims 1-9, 12-21 rejected under 35 USC 103(a) as being obvious over Weder for reasons of record in the last Office Action, paragraph-2, mailed August 11, 2004.

5. claims 12 and 24 rejected under 35 USC 103(a) as being unpatentable over Weder in view the English abstract of Jp'902 for reasons of record in the last Office Action, paragraph-3.

Response to Arguments

6. Applicant's arguments filed January 28, 2005 have been fully considered but they are not persuasive.

Applicant argues that Weder does not teach providing a decorative ribbon material by cutting sheet or web in to strips having a predetermined width. This is not deemed to be convincing because Weder is directed to forming strips of flower pot cover which is understood to include ribbon strips. As for the steps of providing the sheet and cutting it into strips, Weder refers to U.S. Patent 4773182 wherein the process steps are

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disclosed. For example, figure 6 of Patent'182 clearly shows the steps of providing the sheet or web of polymeric material and cutting it into strips of ribbon. The ribbon includes the strips used by Weder as covering for flower pot.

Applicant also argues that Weder also does not teach claims 12 and 24 as it does not teach the recite process steps. This is not found to be persuasive because the above provided grounds of explanation is applied herein *a fortiori*.

Further, contrary to applicant's position, the Japanese'902 was cited to show that it would have been obvious to one having ordinary skill in the art to use foamed sheet having paper-like characteristics.

Thus, in the absence of any evidence to the contrary, it remains the examiner's position that the instant claimed invention is obvious over the prior art of record discussed above.

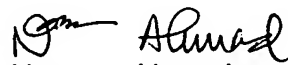
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
May 30, 2005.